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August 28, 2015

9/2/15
JL

MEMO ENDORSED

Colleen M. McMahon

VIA ECF

Honorable Colleen McMahon
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 1640
New York, New York 10007

Re: Vincent Vega Avila, et al., v. Da Silvano Corp. and Silvano Marchetto
Case No. 15-CV-4375

Dear Judge McMahon:

As counsel for Defendants we are writing, with the agreement of Plaintiffs' counsel, to request slight modification of the deadline to complete discovery as to the Named Plaintiffs. On July 31, 2015, the parties appeared before Your Honor for an initial conference, at which time the Court directed that discovery regarding the Named Plaintiffs in this putative Fair Labor Standards Act (FLSA) collective action be completed within 45 days. Minute Order 0731/2015. Subsequently, the parties reached agreement to disseminate notice, pursuant to the FLSA, 29 U.S.C. § 216(b). The Court approved that notice protocol. DKT 13. Notice was mailed on August 24, 2015. Putative opt-in Plaintiffs have until October 8, 2015 to opt in.

The parties are exploring the possibility of settlement. Since the identity of the FLSA opt-ins, if any, will not be known until that deadline to opt in, to conserve resources and to engage in meaningful settlement discussions, the parties respectfully request that the deadline to complete discovery as to the Named Plaintiffs be extended to October 31, 2015. As part of this extension, Defendants have agreed to provide to counsel for Plaintiffs wage-and-hour records for the opt-in Plaintiffs within seven (7) days of the filing of each putative Plaintiff's Consent to Join with the Court. Defendants also have agreed to produce Defendant Silvano Marchetto and a corporate representative witness for deposition by this new proposed discovery deadline.¹

¹ Conducting depositions at this juncture, instead of in September during the opt-in window, will be more efficient because the identity of the FLSA opt-in plaintiffs will be known to both sides, allowing for more efficient depositions of defense witnesses as to all known claimants.



Honorable Colleen McMahon
United States District Court Judge
August 28, 2015
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We thank the Court for its attention to this request.

Respectfully submitted,

JACKSON LEWIS P.C.

A handwritten signature in black ink, appearing to read "John J. Porta". The signature is written in a cursive style with a large, stylized "P".

John J. Porta

JJP/pr

cc: Paul J. Siegel (internal)
Josef Nussbaum (via ECF)
D. Maimon Kirschenbaum (via ECF)